

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

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In re: :
:
THE FINANCIAL OVERSIGHT AND : PROMESA
MANAGEMENT BOARD FOR PUERTO RICO, : Title III
:
as representative of : Case No. 17-BK-3283 (LTS)
:
THE COMMONWEALTH OF PUERTO RICO *et al.*, : (Jointly Administered)
:
Debtors.¹ :
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In re: :
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THE FINANCIAL OVERSIGHT AND : PROMESA
MANAGEMENT BOARD FOR PUERTO RICO, : Title III
:
as representative of : Case No. 17-BK-4780 (LTS)
:
PUERTO RICO ELECTRIC POWER AUTHORITY : **This filing relates only to**
: **Case No. 17-BK-4780 (LTS)**
:
Debtor. :
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**URGENT MOTION TO FILE UNDER SEAL EXHIBITS TO OMNIBUS REPLY OF
OFFICIAL COMMITTEE OF UNSECURED CREDITORS IN SUPPORT OF URGENT
(I) OBJECTIONS TO MAGISTRATE JUDGE’S AUGUST 2, 2019 ORDER ON MOTION
TO COMPEL AND (II) ALTERNATIVE MOTION TO STRIKE AND TO EXCLUDE
OUT-OF-SCOPE DECLARATION TESTIMONY AND RELATED EVIDENCE**

¹ The Debtors in these Title III cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Judge Laura Taylor Swain:

The Official Committee of Unsecured Creditors of all Title III debtors (the “Committee”) submits this *Urgent Motion to File Under Seal Exhibits to Omnibus Reply of Official Committee of Unsecured Creditors in Support of Urgent (I) Objections to Magistrate Judge’s August 2, 2019 Order on Motion to Compel and (II) Alternative Motion to Strike and to Exclude Out-Of-Scope Declaration Testimony and Related Evidence* (the “Motion to Seal”), and hereby states as follows:

RELIEF REQUESTED

1. The Committee has already filed a public, partially-redacted version of its *Omnibus Reply of Official Committee of Unsecured Creditors in Support of Urgent (I) Objections to Magistrate Judge’s August 2, 2019 Order on Motion to Compel and (II) Alternative Motion to Strike and to Exclude Out-Of-Scope Declaration Testimony and Related Evidence* [Case No. 17-3283, Dkt. No. 8509; Case No. 17-4780, Dkt. No. 1602] (the “Reply”). This Motion to Seal seeks the Court’s permission to file the full, unredacted version of the Reply under seal to prevent the public disclosure of documents produced by the Puerto Rico Electric Power Authority (“PREPA”) that contain the designation of “Confidential” pursuant to the *Stipulation and Order in Connection With Discovery Regarding the Joint Motion of Puerto Rico Electric Power Authority and AAFAF Pursuant to Bankruptcy Code Sections 362, 502, 922, and 928, and Bankruptcy Rules 3012(A)(I) and 9019 for Order Approving Settlements Embodied in the Restructuring Support Agreement and Tolling Certain Limitations Periods* [Dkt. No. 1322] (the “Protective Order”).

JURISDICTION AND VENUE

2. The United States District Court for the District of Puerto Rico has subject matter jurisdiction over this matter pursuant to section 306(a) of PROMESA. Venue is proper pursuant to section 307(a) of PROMESA.

3. The statutory basis for the relief requested herein is found in sections 105(a) of the Bankruptcy Code and Bankruptcy Rule 9018, made applicable to the Title III cases by sections 301(a) and 310 of PROMESA, and Local Rule 9018-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of Puerto Rico (the “Local Rules”).

BASIS FOR RELIEF REQUESTED

4. On August 20, 2019, the Committee filed a public, partially-redacted version of the Reply, which is in support of the Committee’s urgent objections (the “Objections”) to the Order of Magistrate Judge Judith Gail Dein (the “Magistrate Judge”), entered on August 2, 2019 [Dkt. No. 1556], and in the alternative, the Committee’s motion to strike and exclude testimony and evidence (the “Motion to Strike”). In seeking this relief, the Committee cites documents produced by PREPA which have been designated “Confidential” under the terms of the Protective Order.

5. The Committee does not necessarily agree that these documents warrant a confidential designation or otherwise meet the requirements for being filed under seal with this Court. Nevertheless, pursuant to the Protective Order, the Committee does not have the ability to unilaterally remove the confidentiality designations that other parties have placed upon the documents they have produced. The Committee therefore files this motion to comply with its obligations under the Protective Order and requests that the Court maintain the confidentiality of the cited documents until such time as (i) the producing parties agree to remove the confidential designations from the documents, or (ii) the Court orders that such designations be removed. If

at any point the Court orders that the full, unredacted version of the Reply be filed on the public docket, the Committee will promptly do so.

6. Counsel for the Committee has informed counsel for PREPA of the relief being sought in this Motion to Seal and has requested that counsel for PREPA inform counsel for the Committee whether they have any opposition to this Motion to Seal. Counsel for the Committee further provided counsel for PREPA unredacted copies of the documents that the Committee has attached to its Reply, and asked whether the documents needed to be kept confidential or whether such designations could be removed, thus obviating the need for sealing. Counsel for PREPA had informed counsel for the Committee that it would not agree to waive confidentiality at this time.

NOTICE

7. Notice of this Motion to Seal has been provided to the following entities, or their counsel, if known: (i) the U.S. Trustee; (ii) the Office of the United State Attorney for the District of Puerto Rico; (iii) the Oversight Board; (iv) the Puerto Rico Fiscal Agency and Financial Advisory Authority; (v) the Official Committee of Retired Employees of the Commonwealth of Puerto Rico; (vi) the insurers of the bonds issued or guaranteed by the Debtors; (vii) counsel to certain ad hoc groups of holders of bonds issued or guaranteed by the Debtors; (viii) Citigroup Global Markets, Inc.; (ix) Filsinger Energy Partners, (ix) Ankura Consulting Group; and (x) all parties that have filed a notice of appearance in the above-captioned Title III cases.

CERTIFICATION

8. Pursuant to Local Rule 9013-1 and paragraph I.H of the Tenth Amended Case Management Procedures [Case No. 17-3283, Dkt. No. 8027-1], the Committee hereby certifies that it has (a) carefully examined the matter and concluded that there is a true need for an urgent

hearing; (b) not created the urgency through a lack of due diligence; (c) made a bona fide effort to resolve the matter without a hearing; (d) made reasonable, good faith communications in an effort to resolve or narrow the issues being brought to the court; and (e) conferred with the parties, who do not oppose the relief requested herein.

CONCLUSION

9. For the reasons stated above, the Committee requests that the Court grant the Motion to Seal and permit the filing of the full, unredacted version of the Reply under seal, restricting access to counsel for the Committee and the parties entitled to receive materials designated “Confidential” under the terms of the Protective Order.

WHEREFORE, the Committee respectfully requests that this Court enter an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein, and granting the Committee such other relief as this Court deems just and proper.

Dated: August 20, 2019

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- and -

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